

Appl. No. 10/697,222
Amendment Dated March 20, 2006
Reply to Office Action dated Dec. 19, 2005

Remarks

These remarks are submitted in response to the Office Action of Dec. 19, 2005. A review of each action by the examiner is included in the discussion below.

I. Objections to the Specification

The examiner objected to the specification as failing to provide proper antecedent basis for the claimed subject matter. Specifically, the examiner stated that the amounts in claim 31 were not presented in the originally filed specification. The applicant has addressed this objection by amending the specification. The newly added paragraph now explicitly includes that information in claim 31. It is submitted that this information does not constitute new matter in that this information was originally present in the specification (in claim 31 itself) and this information has now been included in the written description.

II. Claim Objections

The examiner objected to claims 24 and 25 as being in improper dependent form. The applicant has addressed this objection by canceling those claims. However, new claims 32 and 33 have been added which embody the substance of canceled claims 24 and 25 and are now claimed in the method format.

Appl. No. 10/697,222
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III. Claims Rejections

In paragraph 4 and 7 of the response, the examiner rejected pending claims 1 through 31 for failing to comply with the enablement requirement. The claims have been amended to overcome this rejection. Specifically, claims now refer to at least one component. Additionally, it is submitted that the claims specify quantities or a range of quantities for each component. Further, the applicant respectfully asserts that in the industrial art related to cement admixtures, it is understood that one chemical composition may provide more than one function. Thus, it is not inherently confusing to list the same chemical composition as providing more than one function in the specification. Any confusion is eliminated in the claims by listing what composition may be selected to provide the claim element.

In paragraph 5 of the response, claims 1-31 are rejected for lack of enablement. It is asserted that the specification is enabling for a dry powder admixture but not any kind of admixture. In order to clarify the claims, the independent claims have been amended so that the preamble refers to a dry powder admixture.

In paragraph 6 of the response, claims 1-31 were rejected for lack of enablement. It is asserted that the specification enables an admixture having biodegradable ingredients. The applicant respectfully disagrees with this rejection. The claimed admixture embodiments, in the component amounts specified, conforms to the specification.

In paragraphs 9 and 10 of the response, the claims are also rejected under 35 USC sec. 112. It is asserted that the specification identifies certain components that can have more than one function. The applicant respectfully asserts that the amended claims, by

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specifying materials for each component, provide the requisite specificity required by the statute. Additionally, the applicant incorporates herein and reasserts the argument noted above with respect to paragraphs 4 and 7 of the response, namely that it is understood in the industry that one composition may provide more than one desired function.

In paragraph 11, the examiner objected to the claim phrase "less than about" in claims 5, 30, and 31. The applicant has responded by amending these claims. Paragraph 11 also objected to claim 9 using the indefinite phrase "derivatives" with respect to certain compositions. Claim 9 has been amended to overcome this objection. With respect to the phrase "crumb form" in claim 12, the applicant respectfully responds that this is a term with a meaning understood in the applicable art.

In the unnumbered paragraph following paragraph 11 of the response, claims 14, 18, 19, 21, and 23 are rejected for including trademarks in the claim language. These claims have been canceled or amended to omit trademark references. With respect to the term "vinyl versatate", the applicant respectfully states that, in our understanding, vinyl versatate carries a specific chemical meaning. Vinyl versatate is a polymer derived from versatic acid. Versatate may also be known as nonanoate.

In paragraph 13, the response rejects claims 1 – 31 under 35 USC sec. 103. The references of Kono (#6,165,263) in combination with Emig (#4,039,345), Tokumoto (#4,710,526), or Dragon (#6,075,075) are cited as teaching the claimed admixtures. The applicant respectfully traverses this combination. A close reading of the Kono disclosure reveals that its teaching is related to polymerization technology, a technology that is inapplicable to the claimed subject matter. Kono describes a desired polymer obtained through the polymerization reaction as applicable to cement admixtures; however, the

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substance of the disclosure cited with respect to emulsifiers and accelerators relates to the polymerization reaction necessary to produce the desired polymer. To further advance this point, reference is made to the "emulsifier" disclosed in Kono at col. 5. This is an emulsifier to aid the polymerization reaction, and not to be used in a final cement admixture. Further, an initiator described in col 5/6 is also to be used in the polymerization reaction. At col. 6, ll. 58-60, the Kono specification specifically states that it is the "reaction solution of the aforementioned polymer" that "may be used." Thus, the applicant respectfully submits that Kono cannot be used as the primary reference for a section 103 rejection.

Appl. No. 10/697,222
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Conclusion

In view of the foregoing remarks and amendments it is respectfully submitted that the amended claims are now in proper form for allowance. It is thus respectfully requested that the amended claims be allowed to issue.

Respectfully submitted,

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Craig Weiss
Reg. No. 48274
Weiss, Moy & Harris, P.C.
4204 N. Brown Ave.
Scottsdale, AZ 85251-3914